

ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Amendment of Section 73.202(b) )  
Table of Allotments )  
FM Broadcast Stations )  
(Lamesa and Tahoka, Texas) )

MM Docket No. 95-58  
RM-8627

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

TO: Chief, Allocations Branch  
Mass Media Bureaus

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COMMENTS

100.3 Radio, Inc., licensee of Station KIOL(FM), Channel 26<sup>②</sup>1C1, Lamesa, Texas,  
and West Texas Broadcasting Company Inc., licensee of Station KMMX(FM), Channel  
284C1, Lamesa, Texas (hereinafter referred to individually as "100.3 Radio" and "West  
Texas"), Petitioners in the above-captioned proceeding, hereby submit their comments in  
support of the Notice of Proposed Rulemaking, ("Notice"), DA 95-946, released May 3,  
1995, in which the Commission proposed the following changes in 47 C.F.R. §73.202(b):

**Channel No.**

Community

Present

Proposed

Lamesa, TX  
Tahoka, TX

262C1, 284C1  
237A<sup>1/</sup>

284C1  
237A, 262C1

In support whereof, the following is shown:

<sup>1/</sup> In an unrelated rulemaking proceeding in MM Docket No. 95-83, the Commission issued a Notice of Proposed Rulemaking, DA 95-1271, on June 19, 1995, soliciting comments on whether it should delete "vacant and unapplied for Channel 237 at Tahoka, Texas." Id ¶ 4.

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### **Incorporation of Petition for Rulemaking**

Petitioners hereby incorporate herein by reference their Petition for Rulemaking ("Petition"), including all exhibits attached thereto, filed in this proceeding on April 14, 1994. Said Petition explains in detail the background circumstances which led to the filing of the requests proposed in the Notice.

### **Expression of Interest**

In note 1 of the Notice, the Commission stated that the Agreement attached to the Petition as Exhibit A did not constitute the required expression of interest in constructing new facilities and beginning operations on the proposed Channel 262C1 allotment at Tahoka, Texas. First, Petitioners represent<sup>e</sup> that said exhibit remains in force and that they stand ready to implement the agreement once the Commission has taken the actions proposed in the Notice and granted the pending assignment applications authorizing 100.3 Radio to operate KIOL on Channel 284C1 at Lamesa, and West Texas to operate on Channel 262C1 at Tahoka. Specifically, West Texas represents that upon issuance of Commission orders allotting Channel 262C1 to Tahoka and approving assignment of its present Channel 284C1 license to 100.3 Radio,<sup>2/</sup> it will prepare and file, with the cooperation of 100.3 Radio, an application for a construction permit for new Channel 262C1 facilities at Tahoka, and on grant of that application, will immediately construct said new facilities. Similarly, 100.3 Radio represents that following the issuance of Commission Orders allotting Channel 26<sup>2</sup>C1 to Tahoka, as proposed in the Notice, and granting the application for consent to the

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<sup>2/</sup> Applications requesting Commission consent to the assignments of West Texas Channel 284C1 license to 100.3 Radio and 100.3 Radio's Channel 262C1 license to West Texas were filed in April of 1994.

*West Texas*

assignment of its present Channel 262C1 license to ~~100.3 Radio~~, it will cooperate with West Texas in the filing of the application for construction permit to build new facilities at Tahoka. Also, when the new facilities at Tahoka are completed, West Texas represents that it will make the changes in KIOI's facilities necessary to permit that station to operate on Channel 284C1, and comply with the other provisions of the Agreement. Then, Petitioners represent, they will assign their respective present licenses<sup>3/</sup> to each other, at which time West Texas will immediately begin operation on the new Channel 262C1 facilities at Tahoka, and 100.3 Radio will begin operation on Channel 284C1 at Lamesa.

Petitioners respectfully submit that the foregoing representations constitute an "expression of interest" which is, if anything, more compelling than those the Commission receives in the typical allotment proceeding. These parties have been attempting to resolve questions concerning their licenses for KIOI and KMMX since 1988. Petition, pp. 2-4. They have signed a binding contract which requires West Texas to take all steps necessary to the activation of the Tahoka facilities on a strict timetable. Petition, Ex. A, pgs. 4-6. Thus, West Texas has far more incentive to quickly complete and begin operation of the new facilities at Tahoka than the typical petitioner for a change in allotments.

**Compliance with 47 C.F.R. §1.420(i)**

Petitioners agree with the Commission's recital in paragraphs 2-3 of the Notice concerning the factual basis for the proposed allotment changes under 47 C.F.R. §1.420(i), and submit that those facts meet the concerns of the Commission expressed in Modification

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<sup>3/</sup> The assignment of the present 100.3 radio channel 262C1 license to West Texas would include the construction permit for the new facilities at Tahoka.

of FM and TV Authorization to Specify a New Country of License, 4 FCC Rcd 4870 (1980), recon. granted in part, 5 FCC Rcd 7095 (1990). The case for the proposed changes becomes even more compelling in light of the demonstrated reluctance of others to activate the existing channel in Tahoka. See Note 1, supra. Thus, adoption of proposed allotments will likely provide Tahoka with its first local service.

In addition, Petitioner's submit the attached engineering exhibit which demonstrates that the entire population of the area which would lose service from the proposed changes is well-served by other stations; i.e. it receives service from at least 5 other radio stations. Similarly, the entire area which would gain service also receives at least 5 signals from existing stations. Id. The population of the loss area and the gain area are similar in size (19,505 people in the loss area vs. 15,633 in the gain area). Moreover, some 266,102 people who now receive service from the existing Channel 284C1 and 262C1 facilities will continue to receive the same service after the proposed changes are effectuated. Id.

**Conclusion**

The premises considered, the Commission is respectfully requested to issue a report and order adopting the changes in 47 C.F.R. §73.202(b) set forth in the Notice.

Respectfully submitted,

100.3 RADIO INC.

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(202) 237-8215

Its Attorney

WEST TEXAS BROADCASTING COMPANY, INC.

TAHOKA, TEXAS

ENGINEERING EXHIBIT

June 1995

William Culpepper & Associates  
900 Jefferson Drive  
Charlotte, NC 28270

WEST TEXAS BROADCASTING COMPANY, INC.

TAHOKA, TEXAS

TABLE OF CONTENTS

	<u>PAGE</u>	<u>FIGURE</u>
DECLARATION	1	
NARRATIVE	2	
CHANNEL STUDY	3	
IDENTIFICATION OF STATIONS SHOWN ON FIGURE 2	4	
THE 60 dBu CONTOURS OF THE PRESENT AND PROPOSED KMMX FACILITIES		1
THE 60 dBu CONTOURS OF FM STATIONS AND THE 0.5 mV/m CONTOURS OF AM STATIONS		2
MAP OF THE 70 dBu CONTOUR OF THE PROPOSED KMMX FACILITY AND THE TOWN OF TAHOKA		3

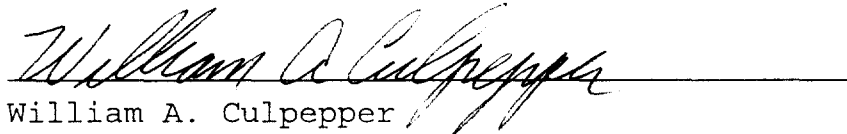
WEST TEXAS BROADCASTING COMPANY, INC.

TAHOKA, TEXAS

DECLARATION

I declare, under penalty of perjury, that I have prepared the attached Engineering Exhibit for West Texas Broadcasting Company, Inc., and that all of the facts therein, except for facts of which the Federal Communications Commission may take official notice, are true to the best of my knowledge and belief; and that I am a Registered Professional Engineer in the State of North Carolina.

Executed on June 23, 1995.

A handwritten signature in cursive script, reading "William A. Culpepper", is written over a horizontal line.

William A. Culpepper  
900 Jefferson Drive  
Charlotte, NC 28270  
704-365-9995



WEST TEXAS BROADCASTING COMPANY

TAHOKA, TEXAS

NARRATIVE

This exhibit has been prepared to demonstrate that the facility proposed by West Texas Broadcasting Company, Incorporated for KMMX-FM would create no under-served population, and that it meets the spacing requirements of §73.207.

Figure 1 shows the relationship of the 60 dBu contours of the facility now used by KMMX and the facility proposed herein.

Figure 2 shows the service contours of a number of other broadcast stations and the present and proposed KMMX 60 dBu contours. It is shown on this figure that all of the gain area created by this proposal already receives at least five services. It is also shown that all of the loss area, except for a small area that is labeled on the map, receives at least five services. The area that would be left with no fifth service contains no population.

Figure 3 is a map that shows that the 70 dBu contour of the proposed facility would encompass the town of Tahoka, thereby meeting the requirements of §73.315.

The population of the present area is 285,607, and the population of the area as proposed is 281,735. The population of the loss area is 19,505, while that of the gain area is 15,633. The population of the area common to both is 266,102.

Populations were determined with a computer program. This program uses Census file PL 94-171 from the 1990 census. Summary levels used include State-County-Voting District / Remainder-County Subdivision-Place / Remainder-Census Tract / Block Numbering Area-Block Group (Summary Level code 740). Population clusters were counted if the associated centroid was inside the 60 dBu contour. Population in the common area was determined by matching the groups that occurred in both the present and proposed areas. The loss area that did not include a fifth service contains no population cluster.

FM contours shown in the figures were developed at 10 degree intervals using the FCC F(50,50) curves and the NGDC 30 second terrain data. AM contours were calculated from current FCC data at 10 degree intervals, using the "equivalent distance" method where more than one ground conductivity was encountered.

The contours shown for the proposed facility assume geographic coordinates of 33° 23' 00" north and 101° 43' 00" west, with 100 kilowatts at 299 meters above average terrain.

WILLIAM CULPEPPER & ASSOCIATES  
900 JEFFERSON DR - CHARLOTTE NC 28270

WEST TEXAS BROADCASTING COMPANY, INC.  
TAHOKA, TEXAS

REFERENCE		CLASS C1	DISPLAY DATES
33 23 00 N			DATA 06-08-95
101 43 00 W	Current rules spacings		SEARCH 06-24-95
----- CHANNEL 262 -100.3 MHz -----			

CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN	
AD262	262C1	Tahoka	TX	0.0	0.00	245.0	-245.00	*
DE262	262C1	Lamesa	TX	213.9	32.85	245.0	-212.15	*
KIOLFM	262C1	Lamesa	TX	213.9	32.85	245.0	-212.15	*
KIOLFM	262C1	Lamesa	TX	191.6	111.73	245.0	-133.27	*
ALOPEN	263C3	Dimmitt	TX	337.9	144.06	144.0	0.06	<
AP263	263C3	Dimmitt	TX	336.5	159.79	144.0	15.79	
KOMX	262C2	Pampa	TX	16.1	253.32	224.0	29.32	

WEST TEXAS BROADCASTING COMPANY, INC.

TAHOKA, TEXAS

IDENTIFICATION OF STATIONS SHOWN ON FIGURE 2

FM STATIONS

KIOL CH 262C1 LAMESA, TX

AM STATIONS

KCRS 550 KHZ MIDLAND, TX

KRFE 580 KHZ LUBBOCK, TX

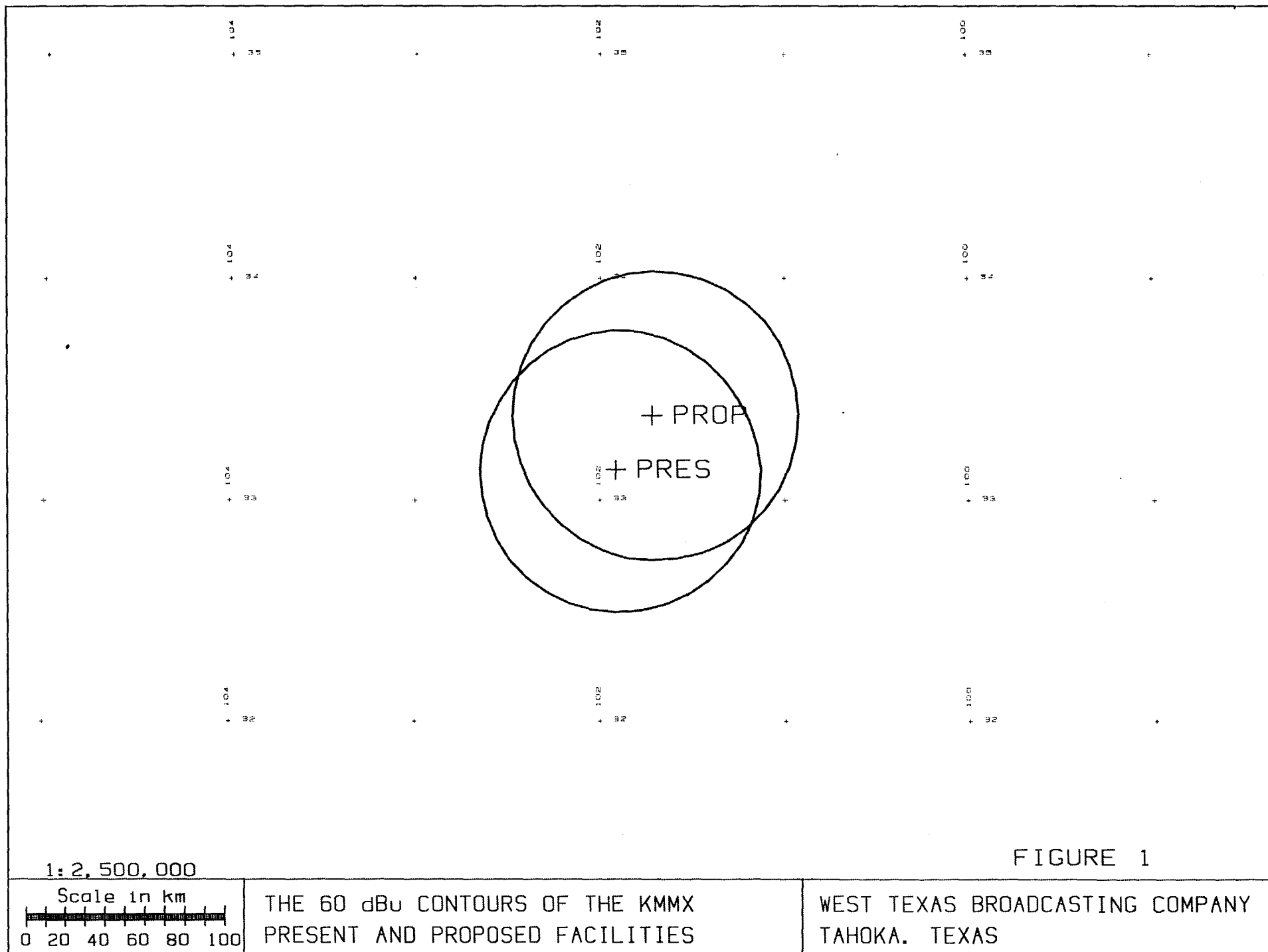
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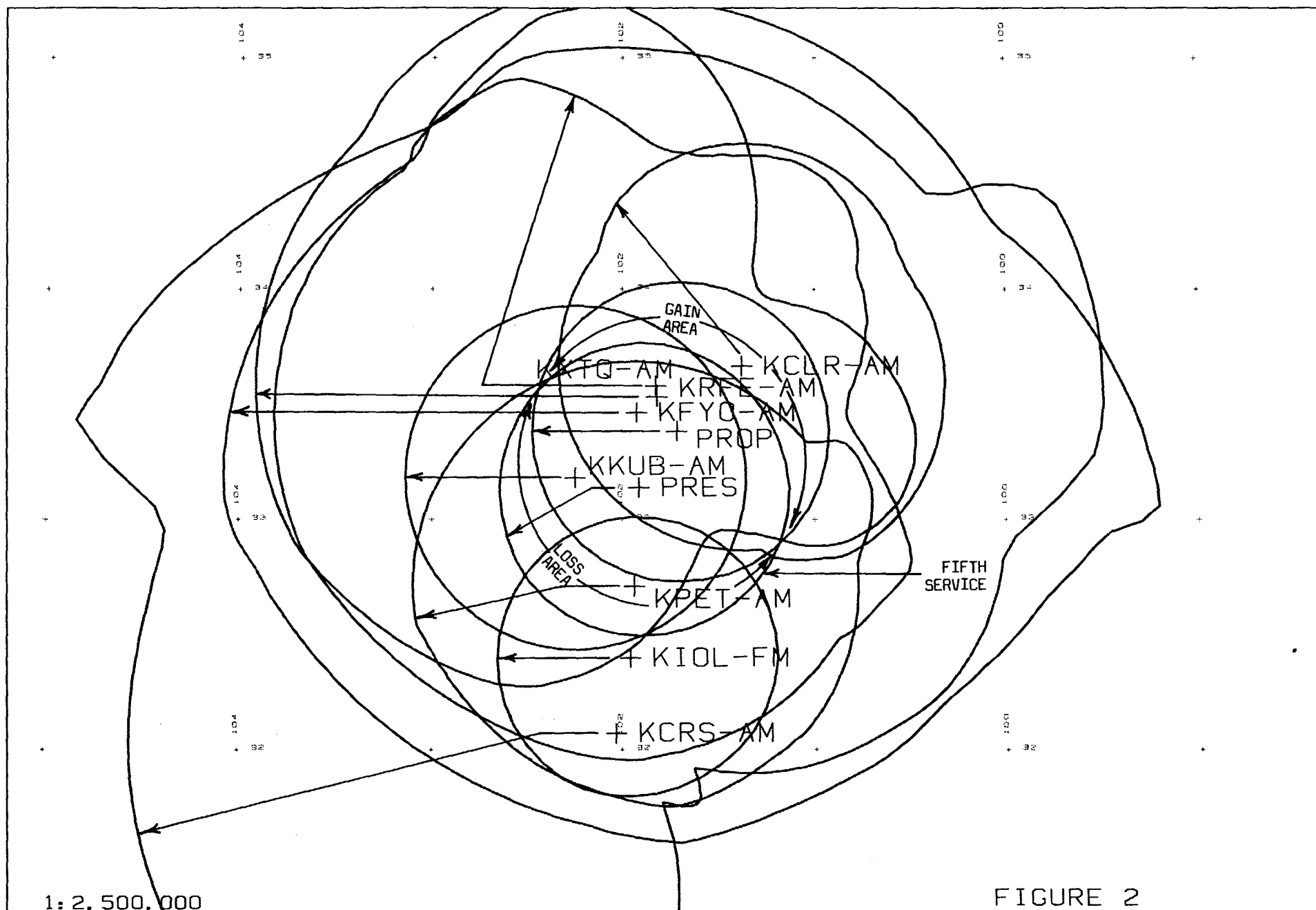
KFYO 790 KHZ LUBBOCK, TX

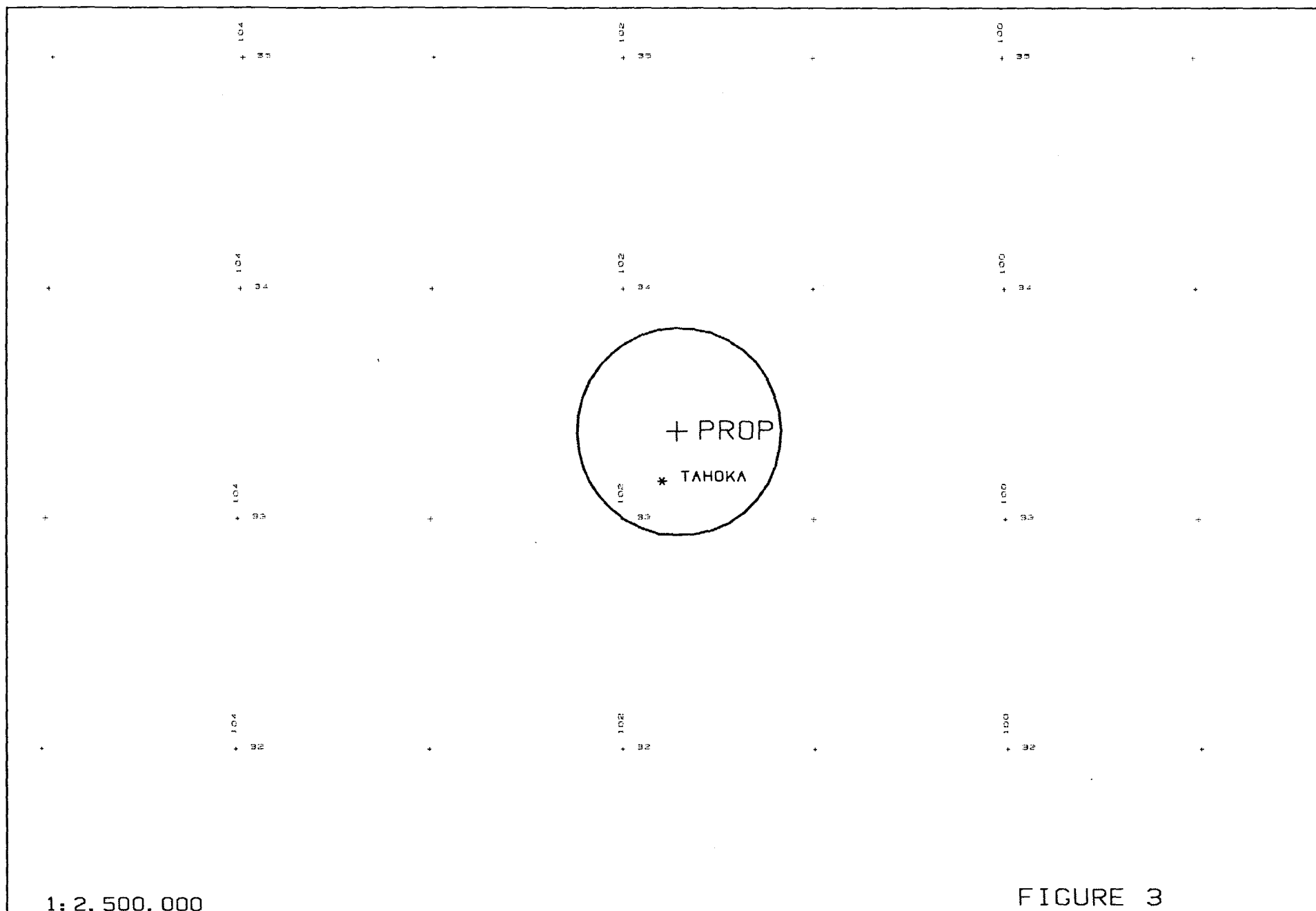
KXTQ 950 KHZ LUBBOCK, TX

KKUB 1300 KHZ BROWNFIELD, TX

KCLR 1530 KHZ RAWLS, TX

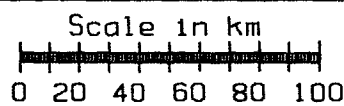






1:2,500,000

FIGURE 3



THE 70 dBu CONTOUR OF THE PROPOSED  
KMMX FACILITIES

WEST TEXAS BROADCASTING COMPANY  
TAHOKA, TEXAS